OPEN BORDERS
ARE AN ASSAULT ON
PRIVATE PROPERTY
Llewellyn H. Rockwell, Jr.

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Mises Institute
518 West Magnolia Avenue
Auburn, AL 36832
mises.org

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Whether we're talking about illegal immigration from Mexico and Central America, or birthright citizenship, or the migrants coming from the Middle East and Africa, the subject of immigration has been in the news and widely discussed for months now. It is an issue fraught with potentially perilous consequences, so it is especially important for libertarians to understand it correctly. This Mises Circle, which is devoted to a consideration of where we ought to go from here, seems like an opportune moment to take up this momentous question.

I should note at the outset that in searching for the correct answer to this vexing problem I do not seek to claim originality. To the contrary, I draw much of what follows from two of the people whose work is indispensable to a proper understanding of the free society: Murray N. Rothbard and Hans-Hermann Hoppe.

Some libertarians have assumed that the correct libertarian position on immigration must be "open borders," or the completely unrestricted movement of people. Superficially, this appears correct: surely we believe in letting people go wherever they like!

But hold on a minute. Think about "freedom of speech," another principle people associate with libertarians. Do we really believe in freedom of speech as an abstract principle? That would mean I have the right to yell all during a movie, or the right to disrupt a Church service, or the right to enter your home and shout obscenities at you.

What we believe in are private property rights. No one has "freedom of speech" on my property, since I set the rules, and in the last resort I can expel someone. He can say whatever he likes on his own property, and on the property of anyone who cares to listen to him, but not on mine.

The same principle holds for freedom of movement. Libertarians do not believe in any such principle in the abstract. I do not have the right to wander into your house, or into your gated community, or into Disneyworld, or onto your private beach, or onto Jay-Z's private island. As with "freedom of speech," private property is the relevant factor here. I can move onto any property I myself own or whose owner wishes to have me. I cannot simply go wherever I like.

Now if all the parcels of land in the whole world were privately owned, the solution to the so-called immigration problem would be evident. In fact, it might be more accurate to say that there would be no immigration problem in the first place. Everyone moving somewhere new would have to have the consent of the owner of that place.

When the state and its so-called public property enter the picture, though, things become murky, and it takes extra effort

to uncover the proper libertarian position. I'd like to try to do that today.

Shortly before his death, Murray Rothbard published an article called "Nations by Consent: Decomposing the Nation State." He had begun rethinking the assumption that libertarianism committed us to open borders.

He noted, for instance, the large number of ethnic Russians whom Stalin settled in Estonia. This was not done so that Baltic people could enjoy the fruits of diversity. It never is. It was done in an attempt to destroy an existing culture, and in the process to make a people more docile and less likely to cause problems for the Soviet empire.

Murray wondered: does libertarianism require me to support this, much less to celebrate it? Or might there be more to the immigration question after all?

And here Murray posed the problem just as I have: in a fully private-property society, people would have to be invited onto whatever property they traveled through or settled on.

> *If every piece of land in a country were owned by some person, group, or corporation, this would mean that no person could enter unless invited to enter and allowed to rent or purchase property. A totally privatized country would be as closed as the particular property owners desire. It seems clear, then, that the regime of open borders that exists de facto in the U.S. and Western Europe really amounts to a compulsory opening by the central state, the state in charge of all streets and public land areas, and does not genuinely reflect the wishes of the proprietors.*

In the current situation, on the other hand, immigrants have access to public roads, public transportation, public buildings, and so on. Combine this with the state's other curtailments of private property rights, and the result is artificial demographic shifts that would not occur in a free market. Property owners are forced to associate and do business with individuals they might otherwise avoid.

"Commercial property owners such as stores, hotels, and restaurants are no longer free to exclude or restrict access as they see fit," writes Hans Hoppe. "Employers can no longer hire or fire who they wish. In the housing market, landlords are no longer free to exclude unwanted tenants. Furthermore, restrictive covenants are compelled to accept members and actions in violation of their very own rules and regulations."

Hans continues:

> *By admitting someone onto its territory, the state also permits this person to proceed on public roads and lands to every domestic resident's doorsteps, to make use of all public facilities and services (such as hospitals and schools), and to access every commercial establishment, employment, and residential housing, protected by a multitude of nondiscrimination laws.*

It is rather unfashionable to express concern for the rights of property owners, but whether the principle is popular or not, a transaction between two people should not occur unless both of those people want it to. This is the very core of libertarian principle.

In order to make sense of all this and reach the appropriate libertarian conclusion, we have to look more closely at what public property really is and who, if anyone, can be said to be its true owner. Hans has devoted some of his own work to precisely this question. There are two positions we must reject: that public property is owned by the government, or that public property is unowned, and is therefore comparable to land in the state of nature, before individual property titles to particular parcels of land have been established.

Certainly we cannot say public property is owned by the government, since government may not legitimately own anything. Government acquires its property by force, usually via the intermediary of taxation. A libertarian cannot accept that kind of property acquisition as morally legitimate, since it involves the initiation of force (the extraction of tax dollars) on innocent people. Hence government's pretended property titles are illegitimate.

But neither can we say that public property is unowned. Property in the possession of a thief is not unowned, even if at the moment it does not happen to be held by the rightful owner. The same goes for so-called public property. It was purchased and developed by means of money seized from the taxpayers. They are the true owners.

(This, incidentally, was the correct way to approach de-socialization in the former communist regimes of eastern Europe. All those industries were the property of the people who had been looted to build them, and those people should have received shares in proportion to their contribution, to the extent it could have been determined.)

In an anarcho-capitalist world, with all property privately owned, "immigration" would be up to each individual property owner to decide. Right now, on the other hand, immigration decisions are made by a central authority, with the wishes of property owners completely disregarded. The correct way to proceed, therefore, is to decentralize decision-making on immigration to the lowest possible level, so that we approach ever more closely the proper libertarian position, in which individual property owners consent to the various movements of peoples.

Ralph Raico, our great libertarian historian, once wrote:

> *Free immigration would appear to be in a different category from other policy decisions, in that its consequences permanently and radically alter the very composition of the democratic political body that makes those decisions. In fact, the liberal order, where and to the degree that it exists, is the product of a highly complex cultural development. One wonders, for instance, what would become of the liberal society of Switzerland under a regime of "open borders."*

Switzerland is in fact an interesting example. Before the European Union got involved, the immigration policy of Switzerland approached the kind of system we are describing here. In Switzerland, localities decided on immigration, and immigrants or their employers had to pay to admit a prospective migrant. In this way, residents could better ensure that their communities would be populated by people who would add value and who would not stick them with the bill for a laundry list of "benefits."

Obviously, in a pure open borders system, the Western welfare states would simply be overrun by foreigners seeking tax dollars.

As libertarians, we should of course celebrate the demise of the welfare state. But to expect a sudden devotion to *laissez faire* to be the likely outcome of a collapse in the welfare state is to indulge in naïveté of an especially preposterous kind.

Can we conclude that an immigrant should be considered "invited" by the mere fact that he has been hired by an employer? No, says Hans, because the employer does not assume the full cost associated with his new employee. The employer partially externalizes the costs of that employee on the taxpaying public:

> *Equipped with a work permit, the immigrant is allowed to make free use of every public facility: roads, parks, hospitals, schools, and no landlord, businessman, or private associate is permitted to discriminate against him as regards housing, employment, accommodation, and association. That is, the immigrant comes invited with a substantial fringe benefits package paid for not (or only partially) by the immigrant employer (who allegedly has extended the invitation), but by other domestic proprietors as taxpayers who had no say in the invitation whatsoever.*

These migrations, in short, are not market outcomes. They would not occur on a free market. What we are witnessing are examples of subsidized movement. Libertarians defending these mass migrations as if they were market phenomena are only helping to discredit and undermine the true free market.

Moreover, as Hans points out, the "free immigration" position is not analogous to free trade, as some libertarians have erroneously claimed. In the case of goods being traded from one place to another, there is always and necessarily a willing recipient. The same is not true for "free immigration."

To be sure, it is fashionable in the US to laugh at words of caution about mass immigration. Why, people made predictions about previous waves of immigration, we're told, and we all know those didn't come true. Now for one thing, those waves were all followed by swift and substantial immigration reductions, during which time society adapted to these pre-welfare state population movements. There is virtually no prospect of any such reductions today. For another, it is a fallacy to claim that because some people incorrectly predicted a particular outcome at a particular time, therefore that outcome is impossible, and anyone issuing words of caution about it is a contemptible fool.

The fact is, politically enforced multiculturalism has an exceptionally poor track record. The 20th century affords failure after predictable failure. Whether it's Czechoslovakia, Yugoslavia, the Soviet Union, or Pakistan and Bangladesh, or Malaysia and Singapore, or the countless places with ethnic and religious divides that have not yet been resolved to this day, the evidence suggests something rather different from the tale of universal brotherhood that is such a staple of leftist folklore.

No doubt some of the new arrivals will be perfectly decent people, despite the US government's lack of interest in encouraging immigration among the skilled and capable. But some will not. The three great crime waves in US history—which began in 1850, 1900, and 1960—coincided with periods of mass immigration.

Crime isn't the only reason people may legitimately wish to resist mass immigration. If four million Americans showed up in Singapore, that country's culture and society would be

changed forever. And no, it is not true that libertarianism would in that case require the people of Singapore to shrug their shoulders and say it was nice having our society while it lasted but all good things must come to an end. No one in Singapore would want that outcome, and in a free society, they would actively prevent it.

In other words, it's bad enough we have to be looted, spied on, and kicked around by the state. Should we also have to pay for the privilege of cultural destructionism, an outcome the vast majority of the state's taxpaying subjects do not want and would actively prevent if they lived in a free society and were allowed to do so?

The very cultures that the incoming migrants are said to enrich us with could not have developed had they been constantly bombarded with waves of immigration by peoples of radically different cultures. So the multicultural argument doesn't even make sense.

It is impossible to believe that the US or Europe will be a freer place after several more decades of uninterrupted mass immigration. Given the immigration patterns that the US and EU governments encourage, the long-term result will be to make the constituencies for continued government growth so large as to be practically unstoppable. Open-borders libertarians active at that time will scratch their heads and claim not to understand why their promotion of free markets is having so little success. Everybody else will know the answer.

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Ludwig von Mises Institute
518 West Magnolia Ave., Auburn, AL 36832